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10/15/2001

Angel Janevski

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EXAMINER

DUNN, MISHAWN N

ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/978,123
Filing Date: October 15, 2001
Appellant(s): JANEVSKI, ANGEL

MAILED

MAR 22 2007

Technology Center 2600

Kenneth D. Springer
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/6/2006 appealing from the Office action
mailed 9/21/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

Claims 1, 2, 4-9, 11-16, and 18-22 stand rejected as being anticipated by Tajima (US Pat. No. 6,928,231).

Claims 3, 10, and 17 are objected to as containing patentable subject matter.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6928231

Tajima

8-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 4-9, 11-16, and 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Tajima (US Pat. No. 6,928,231).

3. Consider claim 1. Tajima teaches a system for video content-based selection of programming for recording comprising: a connection for receiving broadcast programming (col. 5, lines 39-43); and an image processor comparing a demodulated field from the received broadcast programming to a template defining characteristics of

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video content desired to be recorded and saving the field in response to determining at least a threshold level of similarity between the field and the template (col. 5, line 52 – col. 6, line 24).

4. Consider claim 2. Tajima teaches that the template defines color characteristics (col. 6, lines 25-30; col. 8, lines 40-55) and spatial distribution of regions (col. 6, line 38 – col. 7, line 14; col. 9, lines 45-64) to be compared to the demodulated field for determining a level of similarity.

5. Consider claim 4. Tajima teaches that the image processor continuously compares demodulated fields for a selected channel to the template (col. 5, lines 52 – col. 6, line 24).

6. Consider claim 5. Tajima teaches that the image processor compares demodulated fields for a selected channel to the template during a predefined period (col. 9, line 65 – col. 10, line 43).

7. Consider claim 6. Tajima teaches that the image processor compares successive demodulated fields to the template and saves all demodulated fields having at least the threshold level of similarity with the template together with associated audio (col. 5, line 52 – col. 6, line 24).

8. Consider claim 7. Tajima teaches that the image processor compares demodulated fields for a plurality of channels each to a designated template from one or more templates (col. 5, line 52 – col. 6, line 24).

9. Claims 8, 9, 11-16, and 18-22 are rejected for the same reasons as discussed in the corresponding system claims above.

(10) Response to Argument

Claim 1

Regarding line 14 on page 4 to line 1 on page 5 of appellant's arguments, appellant argues that Tajima does not teach "compar(ing) a demodulated field from the received broadcast program to a template defining characteristics of video content desired to be recorded, and sav(ing) the field in response to determine at least a threshold level of similarity between the field and the template." The examiner respectfully disagrees. As recited in col. 5, lines 39-51 of Tajima a video signal, consisting of sequential pictures of 30 frames per second, is output from TV tuner (i.e. demodulated). Since, the specification does not specify exactly what a field is, the examiner interprets a field to be a part of a frame, as it is well known in the art that a field is one half of a complete television frame. Tajima also discloses comparing a demodulated field that has been normalized (configured to be a certain size for comparison purposes) to a normalized image outputted from a database, the outputted image being the template (col. 5, lines 52-66). A threshold level of similarity between the field and the template is then determined and the demodulated field is recorded based on the degree of similarity (col. 6, lines 1-14). Thus, Tajima teaches comparing a demodulated field from the received broadcast program to a template defining characteristics of video content desired to be recorded, and saving the field in response to determine at least a threshold level of similarity between the field and the template.

Regarding lines 10-17 of appellant's arguments, appellant mentions that the claim does not include any language such as "comprising a demodulated field," The examiner

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agrees and apologizes for any confusion. The examiner reads the claim as recited and understands that the system comprises “ an image processor comparing a demodulated field from the received broadcast program to a template defining characteristics of video content desired to be recorded.”

Regarding lines 5-15 on page 6 of appellant's arguments, appellant argues that the normalized face image, as taught by Tajima, is not the same as a demodulated field received from a broadcast program as read in claim 1. The examiner respectfully disagrees. The normalized face image is a normalized demodulated frame and a frame consists of two fields, thus the normalized face image is made up of two demodulated fields.

Claim 2

Regarding lines 9-17 on page 7 of appellant's arguments, appellant states that Tajima does not teach “the template defines color characteristics and spatial distribution of regions to be compared to a demodulated field for determining a level of similarity.” The examiner respectfully disagrees. Tajima teaches that the template defines color characteristics to be compared to a demodulated field by detecting such attributes as a skin color and a shade variance of the face (col. 6, lines 25-30; col. 8, lines 40-55). Tajima also discloses that the template defines spatial distribution of regions to be compared to a demodulated field (col. 6, line 38 – col. 7, line 14; col. 9, lines 45-64). Thus, the template defines color characteristics and spatial distribution of regions to be compared to a demodulated field for determining a level of similarity is taught by Tajima.

Claims 8 and 15

Regarding lines 24-30 on page 7 and lines 8-16 on page 8 of appellant's argument, appellant states that as stated in previous arguments for claim 1 that Tajima fails to teach comparing a demodulated field to a template, not determine any threshold level of similarity between a demodulated field and a template. The examiner respectfully disagrees. As previously stated above, col. 5, lines 39-51 of Tajima a video signal, consisting of sequential pictures of 30 frames per second, is output from TV tuner (i.e. demodulated). Since, the specification does not specify exactly what a field is, the examiner interprets a field to be a part of a frame, as it is well known in the art that a field is one half of a complete television frame. Tajima also discloses comparing a demodulated field that has been normalized (configured to be a certain size for comparison purposes) to a normalized image outputted from a database, the outputted image being the template (col. 5, lines 52-66). A threshold level of similarity between the field and the template is then determined and the demodulated field is recorded based on the degree of similarity (col. 6, lines 1-14). Thus, Tajima teaches comparing a demodulated field from the received broadcast program to a template defining characteristics of video content desired to be recorded, and saving the field in response to determine at least a threshold level of similarity between the field and the template.

Claim 16

Regarding lines 22-31 on page 8 of appellant's arguments, appellant states that as stated in previous arguments for claim 2 that Tajima fails to teach a template defining color characteristics and spatial distribution of regions to be compared to a demodulated field for determining a level of similarity. The examiner respectfully disagrees. As

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previously stated above, Tajima teaches that the template defines color characteristics to be compared to a demodulated field by detecting such attributes as a skin color and a shade variance of the face (col. 6, lines 25-30; col. 8, lines 40-55). Tajima also discloses that the template defines spatial distribution of regions to be compared to a demodulated field (col. 6, line 38 – col. 7, line 14; col. 9, lines 45-64). Thus, the template defines color characteristics and spatial distribution of regions to be compared to a demodulated field for determining a level of similarity is taught by Tajima.

Claim 22

Regarding lines 10-23 on page 9 of appellant's arguments, appellant argues that "the datastream includes both a broadcast programming stream including selected broadcast programming; and at least one template suitable to be used by a receiver to select a portion of the broadcast programming stream for recording based on similarity of a field of the broadcast programming stream and the template" is not taught Tajima. As stated in the Final Office Action, a datastream is simply a sequence of digitally encoded signals representing information also known as a video/audio signal. Tajima teaches a video signal (datastream) outputted from TV tuner (broadcast programming) (col. 5, lines 39-40) and at least one template suitable to be used by a receiver to select a portion of the broadcast programming stream for recording based on similarity of a field of the broadcast programming stream and the template (col. 5, line 52 – col. 6, line 24).


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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

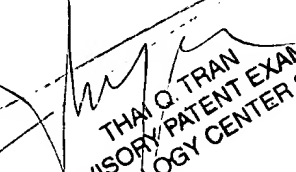
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Mishawn Dunn
Assistant Examiner
Art Unit 2621

Conferees:

Thai Tran (SPE)


THAI Q. TRAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Mehrdad Dastouri (SPE)


MEHRDAD DASTOURI
SUPERVISORY PATENT EXAMINER
TC 2600